

**REQUEST FOR APPLICATIONS  
To Qualify as Certifier for  
California Climate Action Registry Participants**

**CONFLICT OF INTEREST POLICY**

February 2003



Gray Davis, Governor

# CALIFORNIA ENERGY COMMISSION

Jeff Wilson

***Principal Author***

Pierre duVair

***Program Manager***

Charles Mizutani

***Manager***

**Export and Climate Change Office**

Scott Matthews

***Deputy Director***

**Transportation Energy Division**

Robert L. Therkelsen

***Executive Director***

# TABLE OF CONTENTS

<b>Conflict of Interest for State and Registry-Approved Certifiers</b>	1
Introduction	1
The Need for Revision	1
Revised Conflict of Interest	2
Environmental Protection Agency COI Model	4
Kyoto Protocol Clean Development Mechanism COI Model	4
Securities and Exchange Commission proposed Rule	5
International Standards Organization (ISO) Guide 66	6
<b>Process and Requirements</b>	7
Definitions	7
Policy	8
Objective of the Conflict of Interest Process	8
Confidentiality	8
Process and Requirements	8
<b>Forms</b>	16

# **Conflict of Interest For State and Registry-Approved Certifiers**

## **Introduction**

The California Energy Commission (Energy Commission) and California Climate Action Registry (Registry) would like to incorporate effective and efficient Conflict Of Interest (COI) provisions in both the certifier qualification process and the Registry's participant certification process that protect the interests of all Registry stakeholders. To this end, the following COI declaration was included in the June 2002 Request for Applications (RFA):

A qualified provider may not engage in consulting and certification services with the same client. Consulting services include any and all consulting services, not only greenhouse gas emissions or environmental consulting. A certifier may engage in consulting services for other clients, for whom the organization does not engage in any certification activities. In addition, an organization may not provide technical assistance and certification services to the same participant. If, for example, a participating entity chooses to report only emissions within California, that entity's certifier may not provide any consulting services to that entity either within or outside California. Conversely, a firm providing consulting services to the participant either within or outside California may not provide Registry certification services to that participant. A provider may not engage in certification services with a participant for whom that provider engaged in consulting services within the previous 3 years, and vice versa.

## **The Need for Revision**

Every June 2002 RFA applicant to be qualified as a state-approved certifier signed a COI form, agreeing to the above COI declaration. However, some of the applications did not adequately address COI requirements. For example, some companies submitted applications offering the services of staff from either their parent company or an affiliate—yet signed a COI provision for only their own company. To meet the liability requirements, some companies reported the financial information of their parent company. In such instances, the COI provisions, as written, would not cover the activities for all staff or companies presented on the application.

For the applications in which the COI declarations were signed only by a subsidiary, and not the parent or affiliate, the Energy Commission determined it was not able to adequately protect the public, participants, Registry, and state from adverse COI situations.

The Energy Commission presented three possible solutions to make the applications conform to the intent of the COI requirements included in the June 2002 RFA.

1. The applicant could remove all staff not employed by the applicant subsidiary from its application and revise the financial information and experience to reflect only that of the applicant subsidiary.
2. The parent company could sign the COI form and the application could be submitted in the name of the parent company.
3. Multiple subsidiaries could be represented as partners in the application. Each subsidiary would be required to submit separate administrative forms. However, this solution would not be adequate in some cases, depending on the relationships between subsidiaries and the parent company.

However, upon further investigation, the Energy Commission staff concluded that although these solutions were appropriate, the original COI declaration was too ambiguous and did not account for business practices common among the applicants. The blanket prohibition on certifiers providing both certification and consulting services was determined to be overly stringent; especially for companies with diverse operations, some of which might represent little risk of causing a COI situation.

## **Revised Conflict Of Interest**

Therefore, to improve the COI provisions and to enable respondents to future RFAs to more easily understand the COI requirements, the Energy Commission has revised the COI requirements. The revised process provides greater flexibility to certifiers that may have extensive and complex business operations by including an evaluation of COI situations on a case-by-case basis. The greater flexibility may, however, come at a cost of more administrative burden to the certifier and the Energy Commission staff in some situations. For companies that do not have diverse operations, the implementation of the revised COI may require little additional administrative effort and be similar to the original COI requirements. In either case, the revised COI provides more opportunity for all certifiers to undertake a greater range of work while still providing certifications for Registry participants.

A certifier may provide certification services to a Registry participant for, at most, six (6) consecutive years. After a six-year period, the Registry participant must engage a different certifier. The original certifier may not provide certification services during a three (3) year off-cycle period. A certifier may provide certification services to a Registry participant whom they previously provided certification services after the completion of the off-cycle period. A certifier will begin an off-cycle period, and may not provide certification services for a Registry participant, following any lapse in providing annual certification services to a Registry participant.

By requiring a cycling of certifiers, potential COI situations due to lengthy and ongoing relationships may be reduced. During certification, there would be instances where a certifier would necessarily review material previously reviewed by another certifier, for example, in determining if a baseline had reached a 10 percent change threshold over the previous years. Also, even though many elements of the certification process are prescribed in the Certification Protocol, some elements are left to the certifier's professional judgement. In

these areas, different certifiers may bring methodological differences to the certification process. The Energy Commission and Registry may be able to improve the Certification Protocol by noting these methodological differences.

The COI process consists of the four steps summarized below.

During the certifier qualification process:

1. A firm that applies to the Energy Commission to qualify as a state-approved certifier (applicant) will be screened by the Energy Commission for organizational COI. That is, the applicant will disclose instances where the services provided by, shared management of, or other situations created by a parent company or other related entities have the potential to create COI situations. During the application process the applicant will provide the necessary information to inform this screening process.
2. As part of the state-approval process for certifier, the applicant will sign a declaration of ability to perform a case-by-case evaluation of COI and intent to comply with COI process and requirements contained in the document, Conflict of Interest Process and Requirements for State and Registry-Approved Certifiers.

As a state and Registry-approved certifier:

3. A state-approved certifier will submit a case-by-case COI evaluation to the Energy Commission for each Registry participant with whom they propose to conduct certification, and the Energy Commission will make a determination of the potential COI, before the certifier will be allowed to begin certification activities.
4. The certifier will monitor, report to the Energy Commission, and mitigate any COI situations that arise during, and for one year after, certification of a Registry participant's emissions results.

This process is more fully discussed in Conflict of Interest Process and Requirements for State and Registry-Approved Certifiers.

In developing the revised COI requirements, the Energy Commission staff has incorporated relevant elements from the U.S. Environmental Protection Agency (EPA) COI model, the COI model included in the Kyoto Protocol's Clean Development Mechanism (CDM), recently proposed rules of the Securities and Exchange Commission (SEC), and the International Organization for Standardization (ISO) Guide 66. Energy Commission staff expect that firms that are already participating in, or subject to these programs, will have an easier time complying with these revised COI requirements than if the Energy Commission were to develop COI requirements not based on existing or proposed programs. Further, the Energy Commission is directed by legislation to make reasonable efforts to promote consistency between international or federal programs and the Registry program to reduce the reporting burden on those involved with the Registry.

A brief summary of the EPA model, Kyoto Protocol CDM model, SEC proposal, and the ISO Guide 66 and the elements incorporated in the Energy Commission's COI provisions are provided below.

## **Environmental Protection Agency COI Model**

The U.S. Environmental Protection Agency (EPA) first promulgated COI rules in 1994, with updates and clarifications in subsequent years. In brief, the EPA process requires a contractor to:

1. Make full disclosure of any potential or actual COI before contracting with EPA
2. Provide a proposal to avoid, neutralize, or mitigate any potential COI
3. Monitor and notify the EPA if a COI situation is encountered during work
4. Limit future contracting to avoid COI

In turn, the EPA will evaluate potential COI situations and make a determination if the contractor's proposal is adequate to avoid, neutralize, or mitigate any potential COI. The EPA has documented factors that are considered when evaluating a contractor's potential COI and also successful, potential, and unsuccessful COI mitigation strategies.

EPA COI determinations are made on a case-by-case basis. The EPA does not have a blanket provision clearly defining COI situations for all possible contracting scenarios, nor does the EPA set a maximum time limit to complete its COI determination.

Documentation on the EPA COI rules can be found on the EPA website at <http://www.epa.gov/oam/ptod/COI/COIindex.htm>.

The Energy Commission has used elements of the EPA COI rules in developing and devising:

- Definition of COI and organizational COI
- Extending COI to related companies (parent companies, subsidiaries, affiliates, etc.)
- Concept of case-by-case evaluations
- The factors used to evaluate specific cases of potential COI
- Guidelines regarding acceptable and unacceptable mitigation strategies
- Limitations on future contracting

## **Kyoto Protocol Clean Development Mechanism COI Model**

The CDM COI model, similar to the EPA COI model, specifies that:

1. Determinations are made on a case-by-case basis
2. The certifier is to disclose actual and planned involvement with clients
3. Demonstrate that the certifier (CDM uses the terms validator/verifier) can safeguard against potential and actual COI situations.

In this model, a Designated Operational Entity (DOE) functions in a capacity somewhat similar to the certifier. As part of the accreditation process of the DOE, the firm applying for accreditation will submit information necessary to determine organizational COI. Also, the applicant is subject to a mandatory on-site inspection of the operations of their firm and an evaluation by the accreditation body of an actual client audit. Some elements of the Clean Development Mechanism (CDM) COI model are still being developed.

The Energy Commission does not consider it appropriate to conduct on-site inspections of the certifier's operations for the granting of state and Registry-approved certifier status. Also, the Energy Commission does not require an evaluation of an actual certification before providing final approval of certifier status in the Registry program. Instead, the Energy Commission currently relies upon a desk review of applicant information and conducts interviews, if necessary, with applicant staff.

Documentation on CDM COI can be found on the United Nations website at <http://unfccc.int/cdm/doe.html> and at <http://unfccc.int/cdm/accforms2.htm>.

The Energy Commission has used elements of the CDM COI in developing and devising:

- The documentation and information required to determine organizational COI.

## **Securities and Exchange Commission Proposed Rule**

On December 2, 2002, the SEC proposed a rule that would implement elements of the Sarbanes-Oxley Act. The Sarbanes-Oxley Act is in response not just to the financial disruptions caused by Enron and Arthur Anderson, but in response to systemic flaws in the current accounting practices used in the United States. According to a report by the U.S. General Accounting Office, "Financial Statement Restatements," from 1997 to early 2002, almost 10 percent of the companies listed on the major U.S. stock markets corrected financial statements because of material error or fraud. These restatements have resulted in losses to the restating companies of an estimated \$100 billion. By devising a credible COI process, the Energy Commission seeks to avoid fraud and material misstatement due to COI in the Registry program.

The proposed SEC rules would, among other requirements:

1. Prohibit auditors from providing audit services to a client for more than five consecutive years;
2. Prohibit auditors from returning to audit services with the same client within five years;
3. Specify that workpapers and other documents that form the basis of the audit or review, and memoranda, correspondence, communications, other documents, and records (including electronic records), which are created, sent or received in connection with the audit or review and contain conclusions, opinions, analyses, or financial data related to the audit or review should be retained by the auditors for a period of five years.



Documentation on the proposed SEC ruling can be found on the SEC website at [<http://www.sec.gov/rules/proposed/33-8154.htm>](http://www.sec.gov/rules/proposed/33-8154.htm)

The Energy Commission has used elements of the proposed SEC rule in developing and devising:

- Limits on the certifiers ability to provide certification services beyond a set number of years
- Types of work that are incompatible for certifiers and the principles behind designating these types of work as incompatible
- Limits on previous employment of management
- Limits on compensation of certifiers for non-certification services

## **International Standards Organization (ISO) Guide 66**

The ISO Guide 66 outlines an accreditation process for Registrar firms in a process somewhat analogous to the Energy Commission's qualification process of state-approved certifiers. Energy Commission staff continue to evaluate elements of the ISO Guide 66. Documentation on ISO processes can be found on the ISO website at [<http://www.ansi.org/>](http://www.ansi.org/).

# Process and Requirements

The California Energy Commission (Energy Commission) seeks to avoid situations where certifiers engage in activities that create a Conflict of Interest (COI) with California Climate Action Registry (Registry) participants. Therefore, the Energy Commission has developed this COI process and requirements for state and Registry-approved certifiers to delineate a process by which certifiers and the Energy Commission can work together to ensure objective certification opinions of Registry participant's emissions data.

## Definitions

For the purposes of this document, the following terms are defined below.

**Conflict Of Interest** is defined as a situation in which, because of other activities or relationships with other persons or organizations, a person or firm is unable or potentially unable to render an impartial certification opinion of a potential client's greenhouse gas (GHG) emissions, or the person or firm's objectivity in performing certification activities is or might be otherwise compromised.

**Organizational COI** is defined as instances where the ability to render objective GHG certification services may be affected by the services provided by, shared management and/or financial resources with, or other situations created by a parent company or other related entities.

**Personal COI** is defined as a relationship of an employee or a partner employee that may impair the objectivity of the employee in performing a certification.

An **Emerging COI** situation is a potential or actual COI situation that arises, or becomes known, during certification or for a period of one year after the completion of certification activities.

**Certification Activities** include reviewing a Registry participants reported emissions, verifying their accuracy according to standards specified in the Registry's Certification Protocol, and submitting a certification opinion to the Registry.

**Noncertification Activities** are any activities other than certification activities under the Registry's certification protocol.

**Certifier** is a firm or team of firms that has been state and Registry-approved to conduct certification activities under the Registry program.

**Related Entity** is an organization that is related by ownership to a certifier (e.g., parent company, holding company, sister organization, subsidiary, etc.).

**Applicant** is a firm, or lead firm (if part of a team), responding to an Energy Commission RFA for Certifiers.

**Partner** is defined as an organization working through a lead firm (applicant) to respond to an Energy Commission RFA for Certifiers. A partner may or may not be a related entity. If the applicant submits an application wherein staff or financial capability is shared with either a parent firm or subsidiary of a parent firm, then that parent or subsidiary is considered a partner. If the applicant is part of a larger organization, but the application does not include any staff or financial capability from the larger organization, then the larger organization is not considered a partner.

## **Policy**

To protect the credibility and rigor of the Registry certification process, the relationship between certifiers and Registry participants must not create or appear to create a COI. While conducting certification activities for Registry participants, the certifier must work in a credible, independent, nondiscriminatory and transparent manner, complying with applicable state and federal law and the current version of the Energy Commission's *Conflict of Interest Process and Requirements For State and Registry-Approved Certifiers*, as posted on the Energy Commission's website at <[www.energy.ca.gov/global\\_climate\\_change/](http://www.energy.ca.gov/global_climate_change/)>.

## **Objective of the Conflict of Interest Process**

This COI process has been developed to enable the Energy Commission to assess the risk of potential COI between certifiers and Registry participants. The process and requirements outlined below ask each applicant and any partners to demonstrate:

1. Clearly-defined organizational boundaries, internal structures, and relationships with other companies that have management or financial control over the applicant.
2. The presence of internal mechanisms to identify and mitigate organizational and personal COIs with any potential clients.
3. The ability to be objective in providing certification activities.

## **Confidentiality**

The Energy Commission will enter into confidentiality agreements with certifiers and Registry participants as necessary to evaluate potential COI, following Energy Commission regulations as contained in CA Code of Regulations, Title 20, Sect. 2501 et seq. The Energy Commission stresses that it is committed to protecting sensitive business and other information to the full extent permitted by law. The Energy Commission also urges certifiers to identify what information is to be considered confidential business information in its effort to fully disclose any potential COI.

## **Process and Requirements**

The COI process consists of the four steps below.

During the certifier qualification process:

1. The Energy Commission screens applicants in the certifier qualification process for organizational COI. In its application, the applicant provides the Energy Commission with the necessary information to make this determination.
2. Applicants sign a declaration stating their ability to submit to the Energy Commission a case-by-case evaluation of COI to the Energy Commission and their intent to comply with the Energy Commission's COI process and requirements.

Once state and Registry-approval is received:

3. a.) Certifiers submit a case-by-case COI evaluation to the Energy Commission for each Registry participant with whom they propose to conduct certification.  
b.) The Energy Commission makes a determination of the potential COI.  
c.) The certifier is notified of the determination. If yes, the certifier begins certification activities. If no, participant and certifier are notified of COI.
4. The certifier monitors, reports to the Energy Commission, and mitigates any COI situations that arise during, and for one year after, certification of a Registry participant's emissions results.

This process is more fully discussed in Steps 1-4 below.

## **Step 1. Initial Screening for Organizational Conflict of Interest**

The Energy Commission screens applicants in the certifier qualification process for organizational COI. In this step, the applicant and each partner is asked to define its organizational boundaries, internal structures, and relationships with other companies that may influence its objectivity in rendering GHG certification activities. Each applicant and partner is also asked to demonstrate that it has methods in place to identify and resolve potential organizational COIs. Specific information that the Energy Commission will evaluate in conducting this initial screening for organization COI are included in Form A, *Initial Screening for Organizational COI*.

If the applicant submits an application wherein staff or financial capability is shared with either a parent firm or subsidiary of a parent firm, then that parent or subsidiary is considered a partner. In instances where a partner is a related entity, an applicant may submit information on their behalf. Otherwise, partners must provide necessary information and submit their own COI forms as described below.

If the applicant is part of a larger organization, but the application does not include any staff or financial capability from the larger organization, only the applicant needs to submit COI information. However, the applicant will still have to submit information on the larger organization as described below.

If any applicant or partner has applied to be a Designated Operational Entity (DOE) under the Kyoto Protocol's Clean Development Mechanism, those application materials may be

submitted to the Energy Commission in lieu of the information requested in Form A. (All Energy Commission COI forms are attached at the end of this document.)

## **Step 2. Declaration of Ability and Intent to Comply**

The applicant and any partners must each sign and submit a *Conflict of Interest Declaration of Ability and Intent to Comply* (Form B). This is a declaration of the applicant and partner's ability to perform and submit a case-by-case evaluation of COI to the Energy Commission and of the applicant's intent to comply with the Energy Commission's COI process and requirements.

The applicant and any partners must also submit supporting documentation detailing the mechanism for compliance (e.g., description of a database or other software with search capabilities allowing a review of past or existing contracts with a potential client) including policy documents that constrain activities that may represent potential COI. While the Energy Commission requires a documented mechanism, the Energy Commission will not require that certifiers establish any particular type or format of information retrieval system as a mechanism for compliance.

By signing the Form B, the certifier agrees that contracts for certification services that are entered into prior to written notification of a COI determination are done so at the certifier's own risk. Therefore, no claim shall be made against the State of California to recover contract costs whether certification is permitted or not based on the COI determination.

## **Step 3a. Case-by-Case Evaluation of Conflict of Interest**

Prior to the commencement of any work related to certifying a Registry participant's emission reports, a certifier must submit to the Energy Commission an evaluation of any potential or actual COI with certifying the participant's emissions results.

A certifier must demonstrate that it, its partners, and the individuals performing certification activities have no actual or potential conflict of interest with the Registry participants for which it has been selected to carry out certification functions. Diagram 1. below illustrates the steps the certifier should use to evaluate potential for COI. These steps are elaborated in the following discussion.

A certifier may provide certification services to a Registry participant for, at most, six (6) consecutive years. After a six-year period, the Registry participant must engage a different certifier. The original certifier may not provide certification services during a three (3) year off-cycle period. A certifier may provide certification services to a Registry participant whom they previously provided certification services after the completion of the off-cycle period. A certifier will begin an off-cycle period, and may not provide certification services for a Registry participant, following any lapse in providing annual certification services to a Registry participant.

A certifier will have a high risk of COI if the certifier and Registry participant share any management, or if any of the Registry participant's managers of GHG-related activities were previously employed with the certifier within the last three (3) years or vice versa.

A certifier will have a high risk of COI if the certifier or related companies (parent company, subsidiaries of a parent company, affiliates, etc.) has provided to the Registry participant, within the last three (3) years, any of the non-certification services included on the Incompatible Services list below.

The list of Incompatible Services flow from three broad principles that a certifier cannot: (1) certify their own work, (2) perform management functions for the client, or (3) act as an advocate for the client. To do so would impair the certifier's independence.

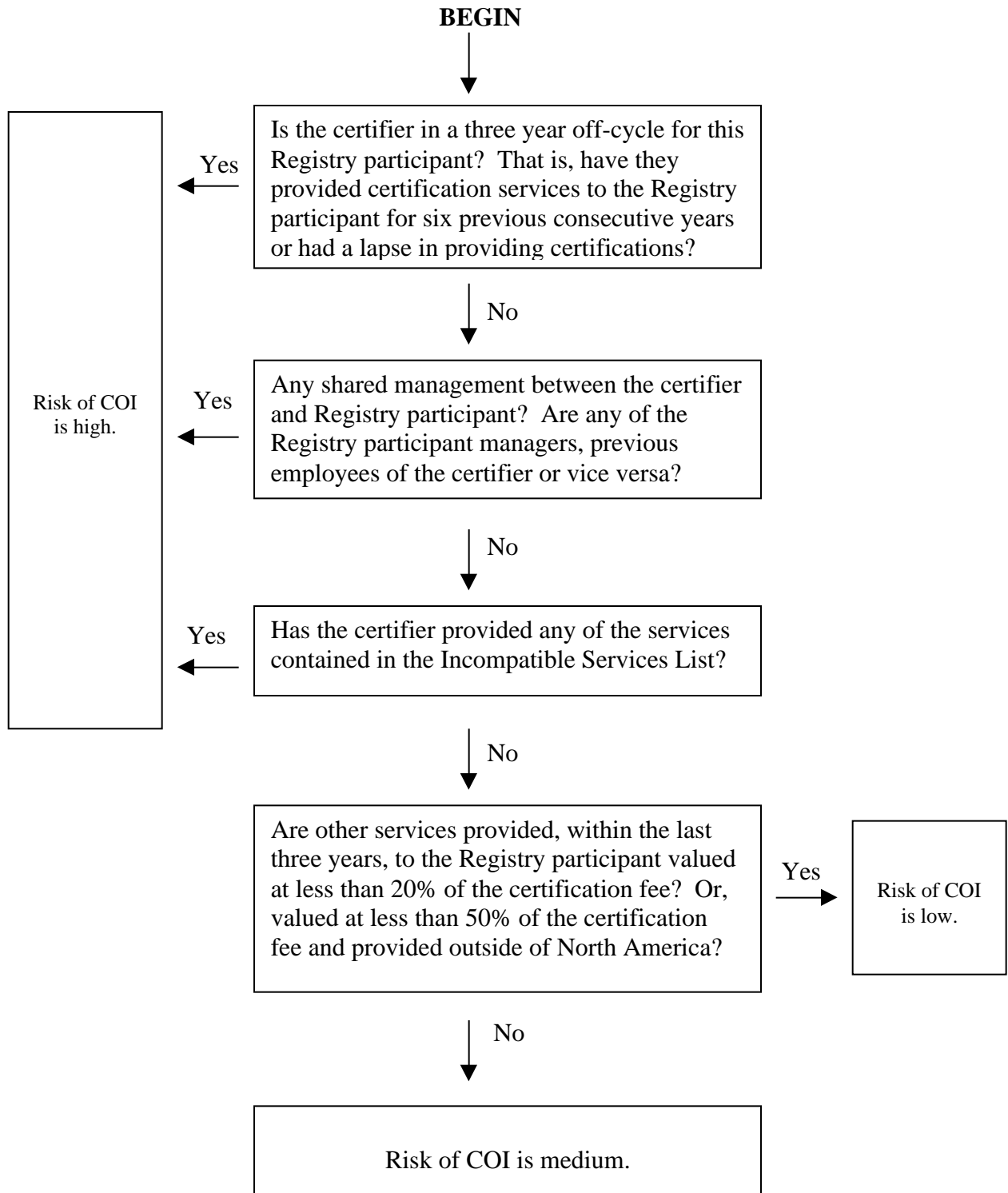
### **Incompatible Services**

- Designing, developing, implementing, or maintaining a GHG emissions inventory
- Designing or developing GHG information systems
- Developing GHG emissions factors or other GHG-related engineering analysis
- Designing energy efficiency, renewable, or other projects which explicitly identify GHG reductions as a benefit
- Preparing or producing GHG-related manuals, handbooks, or procedures specifically for the Registry participant
- Appraisal services of carbon or GHG liabilities or assets
- Brokering in, advising on, or assisting in any way in carbon or GHG-related markets
- Management over health, environment and safety functions
- Legal and expert services unrelated to Registry certification

If a certifier does not have a high risk of COI due to any of the above, then the risk of COI may be low if, within the last three years:

1. The certifier (and related entities) has not provided any services (excluding Registry certification) to the Registry participant; or,
2. The services that were provided are valued at less than 20 percent of the estimated dollar value of the proposed certification, or
3. The services that were provided are valued at less than 50 percent of the estimated dollar value of the proposed certification and those services were provided outside of North America.

**DIAGRAM 1.  
EVALUATING POTENTIAL COI**



If a certifier has neither a high or low risk of COI due to the above, then they will have a medium risk of COI.

In all cases, should a certifier wish to provide certification services to the prospective client, then the certifier must submit to the Energy Commission information about any prior services within the last three years, as specified in Form C, *Evaluation of Conflict of Interest*.

If the certifier identifies a potential or actual COI, the certifier must also submit a plan to avoid, neutralize, or mitigate the COI situation. The Energy Commission will then review the information submitted to determine if the certifier provided adequate information upon which to make a COI determination.

### **Step 3b. Energy Commission Case-by-Case Conflict of Interest Determinations**

The Energy Commission may consider a number of factors, as posed in the questions listed in Form C, in evaluating and making case-by-case COI determinations. Based on criteria developed by the U.S. Environmental Protection Agency, these questions ask the certifier to provide information on the kind of work previously performed for the Registry participant, and the impact that this pre-existing relationship has on the certifier's ability to render an objective GHG emissions certification.

The Energy Commission recognizes that certifiers may not have all of the information readily accessible upon which to base their case-by-case COI evaluations. Therefore, it may be necessary for the Energy Commission to request additional information from the applicant to complete the evaluation. However, certifiers must sign a statement declaring it has provided information to the best of its knowledge and belief as of the date of the declaration.

To provide consistency in the evaluation of COI situations, COI determinations will be made by no more than two staff of the Climate Change Program in consultation with Energy Commission attorneys as necessary.

### **Step 3c. Notification of Determination**

The Energy Commission will notify the certifier in writing when the COI evaluation information is deemed complete. The Energy Commission will then make a determination of the risk of potential COI within ten working days of deeming the evaluation information complete.

After the certifier receives written notification from the Energy Commission that there is not a significant risk of COI, based upon the information provided to the Energy Commission, the certifier must submit a *Notification of Certification Activities* (Form D, Parts 1-4). The certifier can begin certification activities ten working days after the Energy Commission receives a *Notification of Certification Activities* form.



The Energy Commission recognizes that there are instances where conflict situations may have been overcome by events or, due to the time lapses involved, present reduced conflict relationships. However, it is impossible to define in any comprehensive way when a COI relationship may become acceptable. The Energy Commission will judge each situation on its own merits, applying common sense, consistent criteria, and sound judgement.

The Energy Commission urges certifiers to fully disclose any potential COI. Where this requires providing confidential business information, the Energy Commission will enter into confidentiality agreements with certifiers and Registry participants as necessary, following Energy Commission regulations as contained in CA Code of Regulations, Title 20, Sect. 2501 et seq. The Energy Commission stresses that it is committed to protecting sensitive business and other information to the full extent permitted by law.

However, there may be occasions where a client requires confidentiality regarding the release of its name and other information. When a disclosure waiver cannot be obtained from the client, the certifier should explore with the Energy Commission suitable alternatives for providing information sufficient to permit the Energy Commission to render an informed decision on the potential COI.

The Energy Commission will maintain records of COI decisions and related correspondence for seven years.

#### **Step 4. Monitoring and Mitigation of Emerging COI Situations**

Energy Commission notification forms will contain a clause entitled “Limitation of Future Contracting” (LOFC), in which certifiers agree to seek the approval of the Energy Commission before entering into arrangements or relationships that may present COI for a period of one year *after* the completion of certification services. During that time, before entering into any contract that may represent a potential COI situation, the certifier must request a determination of COI from the Energy Commission. The certifier may not enter into any contract with a Registry participant or related entity that the Energy Commission determines would create an unacceptable level of risk of COI.

In order to obtain this determination, the certifier must submit an *Evaluation of Conflict of Interest* (Form C) to the Energy Commission detailing the specifics of their situation and request a determination. Rather than resubmit the information previously submitted during the initial evaluation of COI, the certifier may reference material previously submitted. In evaluating these requests and making a determination, the Energy Commission will follow methods, procedures, and criteria similar to the initial evaluation and determination.

The certifier shall make full disclosure in writing to the Energy Commission immediately of a potential emerging COI situation, including personal or employee COI. This disclosure shall include a description of actions that the certifier has taken or proposes to take, after consultation with the Energy Commission, to avoid, neutralize, or mitigate the actual or potential conflict of interest.

Recognizing that business structures are likely to change over time, the certifier must also report organizational changes in the certifiers company (e.g., mergers, acquisitions) that have COI implications. The certifier does not need to monitor or report changes to the Registry participant's organization.

## **FORM A**

### **INITIAL SCREENING FOR ORGANIZATIONAL CONFLICT OF INTEREST**

Each applicant and partner must submit the following information.

1. Document the structure of your company that will safeguard your impartiality by identifying potential sources of conflict of interest.
2. Identify and describe any committees or structures, which protect and ensure your company's impartiality.
3. If your company is a single entity with defined operations, scopes and locations, please identify those operations, scopes, and locations.
4. If your company is part of a larger organization involved in several activities and services, please identify those activities and services.
5. If your company is part of a larger organization, where parts of that organization are, or may become, involved in the identification, development or financing of any greenhouse gas (GHG)-related activity, please provide the following information:
  - a) a declaration of all the larger organization's actual and planned involvement in GHG-related activities in the form of a matrix or spreadsheet of each activity and which part of the firm anticipates involvement in a given activity;
  - b) evidence of how the organization's planned involvement in GHG-related activities is compatible with your company's certification activities; and evidence that the functions of your company as a certifier does not conflict with any other function that the larger company may have, or if so, how those conflicts will be managed;
  - c) documentation clearly defining the links and management structures, which separate the functions of your company and other parts of the larger organization.
6. Demonstrate how your company's certification business is managed and how any other business in which your company and other related organizations are involved.
7. Demonstrate your company's functional or structural link (common ownership, contractual arrangement, or informal contract) with other related bodies (holding companies, parent companies, subsidiaries, affiliates, etc.). Provide evidence that your company does not distribute or receive any profits to or from any other organization which could cause a conflict of interest, or if so, how those conflicts will be managed.
8. Identify all potential sources of conflict of interest between your company and/or among related bodies.
9. Identify steps taken in order to minimize any risks to your company's impartiality.
10. Document policies and arrangements that demonstrate your company's independence in its operations.
11. Identify procedures and records to demonstrate that your company's staff and senior management are not involved in any commercial, financial or other processes that might influence their judgment.
12. Identify arrangements for the identification of situations involving COI and measures that address and resolve those situations in a timely and responsible manner.

## FORM B

### CONFLICT OF INTEREST DECLARATION OF ABILITY AND INTENT TO COMPLY

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the applicant to the Conflict of Interest provisions listed below.

<i>Applicant Firm Name (Printed)</i>	<i>Federal ID Number</i>
<i>By (Authorized Signature)</i>	
<i>Printed Name and Title of Person Signing</i>	
<i>Date</i>	

#### CONFLICT OF INTEREST

To meet the terms of this policy, the applicant agrees to comply with the following requirements:

A state-approved certifier agrees to comply with the Energy Commission's current Conflict of Interest Process and Requirements for State and Registry-approved Certifiers.

A state-approved certifier shall demonstrate the ability to determine conflict of interest on a case-by-case basis to the satisfaction of the Energy Commission.

A state-approved certifier shall not provide certification services to a Registry participant for whom they have provided any noncertification services that could result in a conflict of interest, as determined by the Energy Commission, in the prior three years.

A state-approved certifier shall not engage in any noncertification services that could result in a conflict of interest, as determined by the Energy Commission, for a Registry participant for whom they have performed certification services for one year after the completion of a certification.

A state-approved certifier shall not provide certification services for a Registry participant for more than six (6) consecutive years.

A state-approved certifier shall not provide certification services for a Registry participant for a period of three (3) years following any lapse in certification services to the client.

#### CONSEQUENCES OF VIOLATION

In the event that terms of the current Conflict of Interest Process and Requirements for State and Registry-approved Certifiers are violated or are suspected of being violated, the Energy Commission, in consultation with the Registry, in its discretion, may disqualify a state-approved certifier.

# FORM C

## EVALUATION OF CONFLICT OF INTEREST

To the best of my knowledge, I \_\_\_\_\_ (*Authorized Signature*) attest that the information provided in support of this evaluation is true and complete and that I have complied with the Energy Commission's current Conflict of Interest Process and Requirements for State and Registry-approved Certifiers.

<i>Certifier Firm Name (Printed)</i>	<i>Registry Participant Name (Organization to be certified)</i>
<i>Printed Name and Title of Person Signing</i>	
<i>Contact Name and Title</i>	
<i>Contact Phone</i>	<i>Date</i>

**At a minimum, all certifiers should answer the following questions as part of their evaluation of conflict of interest (COI). Please provide supporting documentation as necessary.**

1. Risk of COI is      High \_\_\_\_      Medium \_\_\_\_      Low \_\_\_\_
2. Please provide an organizational chart and brief description of the Registry participant and any related entities (e.g., parent companies, affiliates, subsidiaries).
3. Has your firm previously provided certification services for this participant? Yes or No.  
If yes, list the years in which certification services were provided.
4. Has your firm or any related entity engaged in any noncertification services of any nature with the participant either within or outside California during the previous three years? Yes or No. If no, skip questions 4 through 9 and go to question 10.
5. Nature of the Work Performed and Related Services
  - a. What was the nature of the work performed?
  - b. Is the work, that may represent a potential COI, similar to the type of work performed during certification? e.g., auditing, energy efficiency, renewable energy, or other work with implications for greenhouse gas (GHG) emissions or accounting of GHG emissions.
6. Past, Present, and/or Future Relationship(s) (\$)
  - a. When did/will the certifier perform the work for the Registry participant or related entity?
  - b. Is work currently being performed for the Registry participant or related entity? And if so, what work?
  - c. How much work was performed for the Registry participant in the last three years (in dollars and/or percentage of company revenue/gross)?
  - d. Does the certifier currently have any contracts or other arrangements to perform work for the Registry participant or related entity?
  - e. What type of organizational relationships are envisioned (i.e., will parent, affiliates, subsidiaries, sister companies be involved)?
  - f. How much GHG-related work has the certifier performed for the Registry participant or entities related to the Registry participant (e.g., parent company, affiliates) in the last three years? (in dollars and/or percentage of company revenue/gross)

- g. Is the amount of work such that the contractor's credibility and lack of bias could be questioned or challenged?
- 7. Certification Value (\$)
  - a. What is the monetary value of the certification?
- 8. Geographic Proximity
  - a. Is the potential COI related to work performed at the same site, in California, the U.S. or outside the U.S.? (There are no geographical boundaries to potential COI. GHG-related services, even in another country, could represent a COI.)
- 9. Sensitivity/Visibility
  - a. Are there any extenuating circumstances that would cause this work to be considered sensitive or highly visible (e.g., press coverage, special Congressional interest)?
- 10. Does your firm or related entities share any board members or senior management with the participant?
- 11. Please provide a list of names of the staff that may participate in certification activities. For these staff, are there any instances of personal or employee relationships or financial interests that may represent a potential COI?
- 12. Are there any other circumstances that could result in a conflict of interest?

#### **LIMITATION OF LIABILITY**

The certifier agrees that contracts for certification services that are entered into prior to written notification of a COI determination from the Energy Commission are done so at the certifier's own risk. Therefore, no claim shall be made against the State of California to recover contract costs whether certification is permitted or not based on the COI determination.

#### **CONSEQUENCES OF VIOLATION**

In the event that terms of the current Conflict of Interest Process and Requirements for State and Registry-approved Certifiers are violated or are suspected of being violated, the Energy Commission, in consultation with the Registry, in its discretion, may disqualify a state-approved certifier.

## FORM D, Part 1

### NOTIFICATION OF CERTIFICATION ACTIVITIES

Date: \_\_\_\_\_

#### CERTIFIER COMPANY INFORMATION:

Certification Firm Name:

Lead Certifier Name:

Telephone:

E-mail:

Company Address:

#### REGISTRY PARTICIPANT INFORMATION:

Participant Name:

Participant Technical Contact:

Address:

Telephone:

E-mail:

#### As specified in CARROT:

Industry Sector:

SIC:

NAICS:

Total Number of Facilities: \_\_\_\_\_

Reporting for: ☐ California only  
☐ All United States

Baseline Year: ☐ No ☐ Yes. If so, what year? \_\_\_\_\_

Reporting Protocol Used: ☐ General Reporting Protocol  
☐ \_\_\_\_\_ (Industry-Specific Protocol)

**SCHEDULE OF ACTIVITIES:**

Number of Facilities expected to be visited for Certification: \_\_\_\_\_

Please attach a list of sites to be visited with the facility address, facility contact, and anticipated date of visits.

Please provide date or estimated date for each activity.

\_\_\_\_\_ Emissions inventory data submitted to CARROT

\_\_\_\_\_ First on-site certification visit

\_\_\_\_\_ Last on-site certification visit

\_\_\_\_\_ Completion of certification activities

**BRIEF DESCRIPTION OF CERTIFICATION ACTIVITIES**

(For example: interviewing specific staff, checking, fuel use records, etc.)

**INFORMATION REGISTRY PARTICIPANT WILL PROVIDE TO THE CERTIFIER**

Please attach the CARROT certification checklist. Please indicate information the participant has deemed confidential. This could also include, for example: training manuals, utility records, etc.



## FORM D, Part 2

### DESIGNATED STAFF, ROLES, RESPONSIBILITY

All staff undertaking certification activities must be listed with the Energy Commission as designated staff. For those individuals not currently listed as designated staff, please attach information that includes job classifications, relevant experience, education, academic degrees, and professional licenses. Please provide the roles and responsibilities each individual will have in the certification.

For example:

Roles: EMS Specialist

Responsibilities: Check participant's EMS and training program.

Name:

Lead Certifier: ☐

Certifier: ☐

Responsibilities:

Roles:

Name:

Lead Certifier: ☐

Certifier: ☐

Responsibilities:

Roles:

Name:

Lead Certifier: ☐

Certifier: ☐

Responsibilities:

Roles:

Name:

Lead Certifier: ☐

Certifier: ☐

Responsibilities:

Roles:

Name:

Lead Certifier: ☐

Certifier: ☐

Responsibilities:

Roles:

## FORM D, Part 3

### CONFLICT OF INTEREST

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the Certifier to the Conflict of Interest provisions listed below.

<i>Certifier Firm Name (Printed)</i>	<i>Registry Participant (Organization to be certified)</i>
<i>By (Authorized Signature)</i>	
<i>Printed Name and Title of Person Signing</i>	
<i>Date</i>	

To the best of my knowledge, my certification firm has complied with the current Conflict of Interest Process and Requirements for State and Registry-approved Certifiers with respect to the above Registry Participant.

#### MONITORING AND MITIGATION

The certifier agrees to monitor and mitigate potential conflict of interest situations that arise during the course of this certification and for a period of one year after completion of certification activities.

#### LIMITATION ON FUTURE CONTRACTING

My certification firm agrees to limit future contracting with the Registry Participant and related entities that would create a potential for conflict of interest for a period of one year in accordance with the current Conflict of Interest Process and Requirements for State and Registry-approved Certifiers.

#### CONSEQUENCES OF VIOLATION

In the event that terms of the current Conflict of Interest Process and Requirements for State and Registry-approved Certifiers are violated or are suspected of being violated, the Energy Commission, in consultation with the Registry, in its discretion, may disqualify a state-approved certifier.

## FORM D, Part 4

### REGISTRY PARTICIPANT ACKNOWLEDGEMENT OF CALIFORNIA ENERGY COMMISSION VISITS

I, the official named below, am authorized to represent the Registry Participant to the provision listed below.

<i>Registry Participant (Organization to be certified)</i>	<i>Certifier Firm Name (Printed)</i>
<i>By (Authorized Signature of Registry Participant Representative)</i>	
<i>Printed Name and Title of Person Signing</i>	
<i>Date</i>	

\_\_\_\_\_ (Registry Participant), has been informed by the Certifier that a representative from the California Energy Commission (Energy Commission) or its contractor may accompany the certifier to our site during a certification visit and may request information necessary to ascertain the reasonableness of our emissions results and its consistency with Registry Protocols.

I understand that any information obtained by the Energy Commission or its contractor will be used solely for purposes of evaluating the certification process.

I acknowledge that we have been given the opportunity to enter into a confidentiality agreement with the Energy Commission prior to this acknowledgement of the potential Energy Commission visits.